



LEGISLATIVE FISCAL OFFICE

Fiscal Note

Fiscal Note On: **HB 882** HLS 09RS 1795
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

Date: May 20, 2009	5:48 PM	Author: GREENE
Dept./Agy.: Revenue		
Subject: Civil Code Taxability of Movables / Immovables		Analyst: Deborah Vivien

TAX/SALES & USE

EG SEE FISC NOTE GF RV

Page 1 of 1

Provides relative to exclusions from sales and use tax

Current law, as per Act 632 of the 2008 Regular Session, defines immovable tangible personal property in Civil Code Article 466 as things that are attached to a building such as doors, shutters, gutters, cabinetry, plumbing, heating, cooling, electrical and similar systems or things that are attached to a construction other than a building and serve its principal use. Other things are component parts of a building or other construction if they are attached to such a degree that they cannot be removed without substantial damage to themselves or to the building or other construction. Repairs to moveable tangible personal property are subject to state and local sales tax.

Proposed law states that tangible personal property shall not include any property that would have been considered immovable property prior to the enactment on July 1, 2008 of Act 632 of the 2008 Regular Session of the Legislature. Proposed law is declared remedial, curative, procedural and is to be applied retroactively to all transactions occurring on or after July 1, 2008.

EXPENDITURES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

REVENUE EXPLANATION

Act 632 of the 2008 Regular Session appears to have changed the taxability of certain property such that transactions formerly not subject to tax as involving an immovable are now subject to tax involving a moveable. This bill appears to return the taxability of affected transactions to their situation prior to the 2008 law. The extent to which tax collections may have been affected since the 2008 law change is unknown but are expected to be minimal.

This bill mediates the potential consequences of the passage of Act 632 by providing that certain tangible personal property will be declared immovable. The only items excluded are those that were without dispute as a moveable prior to July 1, 2008. Changes in tax law resulting from Act 632 were not heavily advertised to taxpayers, and it is doubtful that many increases in actual payments related solely to Act 632 occurred without an audit judgment, which were very few. Since actual state sales tax collections appear to be minimal as all included items were not in dispute as moveables in the years prior to the passage of Act 632, the fiscal impact of the bill to the state general fund is expected to be minimal. However, if the list of excluded items is expanded to resolve past disputes of any kind, a material general fund impact could result, not only from future collections but also the retroactive language of the bill.

Local sales tax collections may be impacted to a greater degree depending on local standards of judgment prior to July 1, 2008. It is possible that the impact locally could be larger than that of the state if the excluded items were previously considered taxable by local judgment.

Senate

☐ 13.5.1 >= \$500,000 Annual Fiscal Cost

☐ 13.5.2 >= \$500,000 Annual Tax or Fee Change

Dual Referral Rules

House

☐ 6.8(F) >= \$500,000 Annual Fiscal Cost

☐ 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

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